

Message Text

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ACTION STR-05

INFO OCT-01 IO-14 ISO-00 STRE-00 FEA-01 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-01 H-02 INR-07
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-02 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 USIA-15 PRS-01 SP-02
OMB-01 AF-10 ARA-14 EA-12 EUR-12 NEA-10 /157 W
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P 071100Z DEC 77
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 3797

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USMTN

ACTION STR FOR GREENWALD, LANDE, MATTHEISEN

E.O.11652: N/A
TAGS: ETRD, GATT, MTN
SUBJECT: FRAMEWORK GROUP--INFORMAL DISCUSSION OUTLINE ON
"DISPUTE MANAGEMENT"

REF: A) GENEVA 10388, B) GENEVA 8836

1. FOLLOWING IS SYNOPSIS OF MTN DEL DISCUSSION OUTLINE
ON FRAMEWORK GROUP TOPIC NO. 3 (NOTIFICATION, CONSULT-
ATION, SURVEILLANCE AND DISPUTE-SETTLEMENT PROCEDURES--
COLLECTIVELY REFERRED TO AS "DISPUTE MANAGEMENT"). DUE
TO LENGTH OF TEXT, WE PROVIDE IN PARA. 2 BELOW A LIST OF
SUBJECT-HEADINGS COVERED, WITH FULL TEXT TO BE HAND-
CARRIED TO WASHINGTON LATER THIS WEEK. AS DISCUSSED
REF. A (AND NOTWITHSTANDING PROBLEM IN CHARACTERIZING A
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U.S. "POSITION" ON THIS SUBJECT--SEE PARA. 4 BELOW), WE
PLAN TO USE OUTLINE AS AN AGENDA FOR INFORMAL, BILATERAL/
PLURILATERAL WORKING SESSIONS ON THIS TOPIC FOR NEXT
SEVERAL WEEKS AT LEAST. PLEASE NOTE ADDITIONAL EXPLANA-
TORY POINTS PARAS 3, 4 AND 5 BELOW. WE WOULD WELCOME
WASHINGTON COMMENTS.

2. POINTS COVERED IN DISCUSSION OUTLINE ARE AS FOLLOWS:

- A. POSSIBLE FORMS OF AGREEMENT IN FG.
- B. OBJECTIVES AND PRINCIPLES.
- C. INSTITUTIONAL PROVISIONS (COMMITTEE OF ADHERENTS AND INDEPENDENT PANELS).
- D. NOTIFICATIONS.
- E. CONSULTATIONS AND MEDIATION.
- F. CONCILIATION.
- G. INDEPENDENT REVIEW.
- H. FINDINGS AND RECOMMENDATIONS.
- I. IMPLEMENTATION (OF RECOMMENDATIONS).
- J. SURVEILLANCE AND FOLLOW-UP.
- K. TECHNICAL ASSISTANCE (FOR LDCS).

3. DISCUSSION OUTLINE IS IN SOME SENSES A "CHECKLIST", BUT REFLECTS A VARIETY OF PROPOSALS AND IDEAS PUT FORWARD BY U.S. AND OTHER DELS IN SEVERAL DIFFERENT FORA, PLUS SOME IMPROVISATIONS. AS A RULE, MOST DELS HAVE REFRAINED FROM MAKING CONCRETE DISPUTE-MANAGEMENT PROPOSALS IN FRAMEWORK GROUP (FG), WHILE ADDRESSING SPECIFIC LANGUAGE TABLED (E.G., BY CANADA, MEXICO AND AUSTRALIA) IN NTM SUBGROUPS (I.E., STANDARDS, GOVT. PROCUREMENT, SUBSIDIES/COUNTERVAIL) AND (BY U.S.) IN GROUP SAFEGUARDS. FOR CONVENIENCE WE WILL INDICATE COUNTRY SOURCES OF VARIOUS ELEMENTS IN VERSION OF OUTLINE POUCHED TO UNCLASSIFIED

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WASHINGTON BUT, IN INTEREST OF FLEXIBILITY AND OPEN-MINDEDNESS, NOT IN VERSION TO BE CIRCULATED TO OTHER DELS. MANY ELEMENTS THUS ATTRIBUTED TO U.S. HAVE NOT YET BEEN FORMALLY PROPOSED, BUT ARE INSTEAD DRAWN FROM SECTION 121 WORKING GROUP REPORT WHICH, AS PREVIOUS FG INSTRUCTIONS INDICATED, REMAINS SOLE SOURCE OF TPRG-APPROVED (SEPTEMBER 1975) GUIDANCE ON DISPUTE MANAGEMENT AS A GENERAL TOPIC.

4. WASHINGTON AGENCIES SHOULD BE WELL AWARE THAT U.S. HAS EXPLICITLY TAKEN AT LEAST FOUR DIFFERING POSTURES ON DISPUTE-MANAGEMENT QUESTIONS, IN CONTEXT OF SPECIFIC INSTRUCTIONS FOR SAFEGUARDS, STANDARDS, GOVT. PROCUREMENT, AND SUBSIDIES/COUNTERVAIL, IN ADDITION TO MORE GENERALIZED STATEMENTS MADE IN FG AND (PRESUMABLY) IN CG-18. CONSEQUENTLY, THERE IS A PROBLEM IN CHARACTERIZING A SINGLE U.S. "POSITION" ON CERTAIN POINTS IN OUTLINE. THIS PROBLEM MAY BE SIDE-STEPPED FOR TIME BEING, GIVEN INFORMAL AND STILL-TENTATIVE NATURE OF CONSULTATIONS ANTICIPATED WITH OTHER DELS USING DISCUSSION OUTLINE; IT WILL, HOWEVER, ASSUME INCREASINGLY GREATER PROPORTIONS IF AND WHEN FG-GENERATED WORK ON DISPUTE MANAGEMENT BEGINS

TO RENDEZVOUS WITH COURSE OF WORK ON INDIVIDUAL CODES
BEING NEGOTIATED. (FOR OUR PART, WE EXPECT TO BE REPRESENTED IN FUTURE DISPUTE-MANAGEMENT BILATERALS BY DELEGATION OFFICERS DEALING WITH NTMS AND SAFEGUARDS AS WELL AS FRAMEWORK.)

5. AN ADDITIONAL PROBLEM RELATES TO PACKAGING EVENTUAL FG RESULTS ON THIS SUBJECT, IF BOTH "CODIFICATION" (AT EC INSISTENCE) AND INTERFERENCE WITH WORK ELSEWHERE IN MTN (AT U.S. INSISTENCE) ARE TO BE AVOIDED. AGAIN, INFORMAL NATURE OF WORK IN NEAR-TERM FG CONTEXT SHOULD PERMIT COHERENT DISCUSSION OF SPECIFIC ELEMENTS INVOLVED, WHILE LEAVING FOR END-OF-DAY THE BROADER QUESTION OF INCORPORATING ACTUAL RESULTS IN A FG (AND MTN) "PACKAGE". OUR
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PRESENT INTENTION IS TO PROMOTE FG WORK ON THIS SUBJECT IN LESS-THAN-PLenary SETTING, SUBJECT TO ANY FURTHER

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GUIDANCE FROM WASHINGTON, USING DISCUSSION OUTLINE AS
AN INFORMAL AGENDA. THROUGH DISCUSSION OF PROS AND CONS

OF CONCRETE ELEMENTS AND EXPLORATION OF POSSIBLE ADDITIONS/COMPROMISES/ALTERNATIVES, AN ATTEMPT CAN BE MADE TO BEGIN BRIDGING DIFFERENCES AMONG DELEGATIONS' POSITIONS.

6. DISCUSSION OUTLINES ON FG TOPICS NO. 2 (BALANCE OF PAYMENTS MEASURES) AND NO. 5 (EXPORT CONTROLS--INTERIM) PROVIDED IN GENEVA 10605 AND 11184, RESPECTIVELY.

7. DRAFTED BY MARK. MCDONALD

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